C.S.1001

SINGLE BENCH (3)

IN THE HIGH COURT OF CHHATTISGARH BILASPUR

Writ Petition No. 1548 / 2005

Petitioner

Dr. R. K. Damle, Aged 50 Yrs.
S/o Late Shri ManiRam Damle
R/o F-1, Hospital Campus,
Distt. Hospital, Durg (CG)

VERSUS

Respondents

1. State of Chhattisgarh,
Through: Secretary,
Health and Family Welfare Deptt.
D.K.S. Bhawan, Mantralaya, Raipur

2. Inspector General of Police,
Anti-Corruption Bureau,
Raipur (CG)

P.R. No. 1796/05
Presented by Shri Pandey
dated 20/10/05

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

NOTARY

20/10/05
CLERK to A. G. BILASPUR

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP.1548/05 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

25.4.2005

Mr. Raja Sharma, counsel for the petitioner.

Mr. Bhaskar Pyasi, Panel Lawyer for the State.

The petitioner has preferred this petition under Article 226/227 of the Constitution of India questioning the legality & propriety of order dated 11.4.2005 (Annexure P-1) whereby the petitioner has been transferred from Durg to Kanker.

Brief facts leading to filing of this petition are that the petitioner is working as Assistant Surgeon in the District Hospital, Durg. On 10.2.2005 the petitioner was trapped and caught red handed by Anti Corruption Bureau while taking bribe and as per the case of the petitioner so far charge sheet has not been filed against the petitioner.

Perusal of the transfer order shows that the petitioner has been transferred with reference to the action taken by the Anti Corruption Bureau and that is why copy of the transfer order has been sent to the Inspector General of Police, Anti Corruption Bureau.

Further case of the petitioner is that his children are studying at Durg in Class 6th & 9th respectively and if the impugned transfer order is allowed to continue then the career of the petitioner's children will be adversely affected. The impugned order is also against the transfer policy of 2004-05 which envisages that minimum transfer should be made. The impugned transfer order has been passed on the dictates of some external agency.

Learned counsel for the petitioner argued the same points which have been raised in the petition.

Having heard counsel for the parties, I have perused the records.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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During the course of arguments learned counsel for the petitioner informed that the petitioner was working at Durg for last about 2 ½ years, therefore, it cannot be termed as immature transfer. Even otherwise as far as interference by Anti Corruption Bureau is concerned, there is nothing on record which shows that the petitioner has been transferred merely on the direction of the Bureau. The impugned order says that the petitioner is transferred temporarily till further orders.

The petitioner has been caught red handed by the Bureau while taking bribe, he has been transferred from his place and moreover, he is working at Durg around about 2 ½ years, therefore, I am of the opinion that the petitioner has not been able to make out a case for interference by this Court. As far as the transfer policy in which it has been mentioned that minimum transfer should be made is concerned, in the first instance the policy is for the guidance of administrative authority to take into consideration at the time of issuing transfer orders, it is not mandatory that the authority to follow the policy by letter and spirit, but the discretion is given to the authority to transfer on administrative exigency and moreover, policy is not enforceable at law. It is settled law that transfer can be challenged only on the ground of malafide or if the transfer is made contrary to any statutory rules. The petitioner has not been able to raise any ground that his transfer is malafide.

In view of the above, I am of the opinion that this petition has no substance, same is liable to be dismissed and accordingly, it is dismissed at the admission stage itself.

Consequently, M.(W.)P. No.1207/05 & I.A. No.3016/05 also stands disposed of.

Sd/-
L.C.Bhadoo
Judge